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**FTAA – COMMITTEE OF GOVERNMENT REPRESENTATIVES ON PARTICIPATION BY
CIVIL SOCIETY**

COVERSHEET

FOR THE TRIPARTITE COMMITTEE

Re: CIVIL SOCIETY

ECLAC

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Executive Summary

One of the aims of the state, according to Article 1 of the Political Constitution of the Republic, is to foster the intermediate groups that society uses for its structure and organization. The fostering of these groups means opening up spaces for participation on issues of public interest in which the state plays a part and that are the purview of civil society.

This participation takes place within a framework of international rules where most of the states have economic and commercial obligations that are set forth in international instruments that are binding on the states alone, and where obligations involving human rights or social, economic and cultural rights are set forth in treaties signed by the states. Nevertheless, most coverage of these social, economic and cultural rights, the rights to work, housing, education and health, is on a plane parallel to that of the states --one dominated by private law-- where transnational corporations, international trade associations and other institutions define policies dealing with these rights, in an era when the state and its role as regulator are shrinking.

This poses the need to establish mechanisms enabling the citizenry to monitor agreements signed by the states and trade negotiations.

The status of civil society in treaties can take different forms. It may be that of *observandi* or observers, such as the one we have before the assemblies of the United Nations. Or it may be as *consultandi* or *concurrenti*, when the assemblies or bodies allow the civil society organizations to voice their opinion or be part of an agreement of some kind. Thirdly, there is that of *proponendi*, when the organizations are invited to propose specific clauses in treaties, such as the well-known labor clauses, democratic clauses or, as in the case of some treaties in Europe, to sit on administrative committees comprising civil society and the states.

Lastly, there is the status as *resolutio*, the highest level, where civil society may appoint a representative who not has decision-making powers but may settle disputes that are regulated by a treaty. Such is the case of the representatives on human-rights commissions and in the human-rights courts, under international civil-rights, political, social and cultural agreements that allow civil society to appoint a representative to act as judge. Consideration could also be given to awarding it the status of *decidendi*, with the state and civil society on an equal footing.

The participation of civil society is justified because, basically, it is an agent for redistribution of income that somehow is a catalyst for or mobilizes capital. The reason behind this is that it is in commercial agreements where economic, social and cultural rights are negotiated, discussed, attained, where they are covered by participation. These treaties deal with the coverage of rights that are, in the end, human rights. This is a matter on which there is little awareness in Chile, in that the state is under the obligation to comply because of international treaties that are in effect.